

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

### WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

To:

see form PCT/ISA/220

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/EP2004/052914

International filing date (day/month/year)  
10.11.2004

Priority date (day/month/year)  
11.11.2003

International Patent Classification (IPC) or both national classification and IPC  
A61N2/02

Applicant  
IGEA S.R.L.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

10/578658  
International application No.  
PCT/EP2004/052914

AP20 Rec'd PCT/PTO 09 MAY 2006

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/EP2004/052914

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**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

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The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 12-15

because:

☒ the said international application, or the said claims Nos. 12-15 relate to the following subject matter which does not require an international preliminary examination (*specify*):

**see separate sheet**

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the whole application or for said claims Nos. 12-15

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See separate sheet for further details

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/EP2004/052914

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	2-11
	No: Claims	1
Inventive step (IS)	Yes: Claims	
	No: Claims	1-11
Industrial applicability (IA)	Yes: Claims	1-11
	No: Claims	

2. Citations and explanations

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

10/578658  
AP20 Rec'd PCT/PTO 09 MAY 2006  
International application No.

PCT/EP2004/05

**Re Item III.**

Method claims 12-15 define a method for treatment of the human or animal body by therapy or surgery practised on the human or animal body. Therefore, no preliminary international examination is required for the subject-matter of these method claims (see Article 34 (4) (a) (i) PCT and Rule 67.1 (iv) PCT).

**Re Item V.**

1. The following documents are referred to in this communication:

D1 : US 2003/093028 A1 (SPIEGEL MICHAEL) 15 May 2003 (2003-05-15)  
D2 : EP-A-1 138 348 (MEDISCAN GMBH) 4 October 2001 (2001-10-04)  
D3 : US-A-4 587 957 (JOHN C. CASTEL) 13 May 1986 (1986-05-13)

2. INDEPENDENT CLAIM 1

- 2.1 The feature "for Anatomic Biophysical Chondroprotection" is not a feature of the device but merely defines the intended purpose of the device. Therefore, it does not clearly limit the subject matter of claim 1.
- 2.2 The feature "directed on a part of the human body (26) including cartilaginous tissue (27)" is a method step and not a feature of the device. Therefore, it does not clearly limit the subject matter of claim 1.
- 2.3 Document D1 discloses (the references in parentheses applying to this document) the following features of claim 1:

*an electromagnetic field stimulator (page 4, col. 2, paragraph 63), in which means of current generation (19, 20) are suitable for powering at least one solenoid (17, 16) to generate an electromagnetic field (18), characterised in that the said means for current generation supplies said solenoid (17, 16) with current  $I(t)$  having a waveform (23) that includes the repetition of a ramp with a certain slope (see figure 6, ref. 23).*

The feature "said current  $I(t)$  causing the generation of an electromagnetic field that induces on a control probe irradiated by said electromagnetic field, a voltage of markedly constant amplitude during the ramp-like linear growth period of said current." lacks clarity (see Item VIII below).

However, as far as it can be understood, this feature merely appears to indicate that the current increases linearly as a function of the time. This is also the case with the device of D1 because the indicated magnetic field (see figure 7) clearly increases

linearly as a function of the time and said magnetic field is proportional to the current.

Therefore, all features of claim 1 are considered disclosed in D1 and hence, the subject matter of claim 1 is considered not new (Article 33(2) PCT).

**3. DEPENDENT CLAIMS 2-11**

Dependent claims 2-11 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Article 33(3) PCT).

**3.1 The features as defined in dependent claims 2-10 relate to straight forward features in the field of electrical signal processing circuitry.**

Document D2, for example, discloses such a digital signal generator as defined in claims 2-4 (page 7, col. 12, lines 12-27, and paragraph 0105).

The features of dependent claims 5-10 are also common in the field of electric signal processing and generators.

**3.2 Claim 11**

Flexible coils and solenoids for treating the human body with a magnetic field are well known in the art, see for example document D3, col. 3, line 58 to col. 4, line 48.

**Re Item VIII.**

The control probe(32) does not appear to be a part of the invention. Therefore, any reference to it in order to define the invention, leads to a lack of clarity (see PCT Guidelines of 25-03-2004, section 5.37).